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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No., EPA-R02-OAR-2011-0499; FRL-9486-1]

Approval and Promulgation of Implementation Plans; Reasonably  
Available Control Technology for Oxides of Nitrogen for a  
Specific Source in the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing approval of a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the stationary reciprocating, diesel fuel fired, internal combustion engines operated by the Naval Weapons Station Earle located in Colts Neck, New Jersey. This action approves the source-specific RACT determination that was made by New Jersey in accordance with the provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this rule is to approve source-specific emissions limitations required by the Clean Air Act.

EFFECTIVE DATE: This rule is effective on [Insert date 30 days from date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2011-0499. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

FOR FURTHER INFORMATION CONTACT: Raymond K. Forde, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-3716.

**SUPPLEMENTARY INFORMATION:****I. What Action is EPA Taking today?**

EPA is approving New Jersey's revision to the ozone State Implementation Plan (SIP) submitted on May 14, 2009. This SIP revision relates to New Jersey's NOx RACT determination for the Naval Weapons Station Earle (NWSE) facility located in Colts Neck, New Jersey, Monmouth County. The facility contains two stationary reciprocating, diesel fuel fired, internal combustion engines one existing and one new engine.

**II. What Comments Were Received and What is EPA's Response?**

EPA received one comment from the public. The commenter expressed support for EPA's proposed approval of the New Jersey SIP revision but was concerned about the length of time from the date EPA received the SIP revision request to the date of EPA's proposal to approve the SIP revision. EPA understands the commenter's concerns. However, due to the numerous SIP revisions that EPA receives, and the limited resources EPA has to act on all SIP revisions, EPA must process SIP revisions based on overall program priorities.

**III. Conclusion:**

EPA has determined that New Jersey's SIP revision for the NOx RACT determination for NWSE's engines is consistent with New

Jersey's NOx RACT regulation and EPA's guidance. EPA has determined that New Jersey's SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Therefore, EPA is approving the NOx emission limits identified in New Jersey's Conditions of Approval document for NWSE's engines. The conditions contained in the Conditions of Approval document currently specify emissions limits, work practice standards, testing, monitoring, and recordkeeping/reporting requirements. These conditions are consistent with the NOx RACT requirements specified in Subchapter 19 of Chapter 27, Title 7 of the New Jersey Administrative Code and conform to EPA NOx RACT guidance.

More specifically, EPA approves the current Conditions of Approval document which includes the following, to limit the:

1. NOx emissions rate from each engine to 11.3 g/bhp-hr,
2. total NOx emissions rate while combusting 100% distillate oil to 4.67 tons per year for both engines combined,
3. combined hours of operation for both engines to less than 675 hours per year,
4. operation of each engine to 75% load or less, and
5. annual fuel usage to 20,047.50 gallons per year combined for both engines.

In addition, the Conditions of Approval specify the NO<sub>x</sub> emissions limits, combustion process adjustments mentioned above, emission testing, monitoring, recordkeeping and reporting requirements, which States and sources will need to provide for through the Title V permitting process.

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on

a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER

OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.





List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

\_\_\_\_\_Dated: October 19, 2011.

Judith A. Enck

Regional Administrator

Region 2

Part 52, chapter I, title 40 of the Code of Federal Regulations  
is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as  
follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart FF - New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(90) to  
read as follows:

§52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(90) Revision to the New Jersey State Implementation Plan (SIP)  
for ozone concerning the control of nitrogen oxides from Naval  
Weapons Station Earle dated May 14, 2009 and supplementary  
information dated May 21, 2009 submitted by the New Jersey State  
Department of Environmental Protection.

(i) Incorporation by reference:

(A) A letter from Mr. Frank Steitz, Chief, Bureau of Air Permits, New Jersey Department of Environmental Protection, addressed to Captain G.A. Maynard, Commanding Officer, Naval Weapons Station Earle titled "Alternative Maximum Emission Rate (AEL) for Nitrogen Oxides (NOx) Pursuant to N.J.A.C. 7:27-19.13 and Significant Modification of Operating Permit," dated and approved May 21, 2009 including Attachment 1 "Conditions of Approval Alternative Maximum Emission Rate For NOx For Two (2) Detroit Diesel Distillate Oil Fuel Fired 2-Stroke Diesel Internal Combustion Engines, Naval Weapons Station Earle."